

**REMARKS**

Claims 3-20 and 22-26 were under consideration. Claims 22 and 23 are cancelled. Independent Claims 27 and 28-29 are newly-presented. Claims 3-20 and 24-29 are now pending.

**Disclosure Supporting the Instant Amendment:**

Claims 3-6, 10, are amended merely to edit claim dependency.

New independent Claim 28 recites a cosmetic substance applicator device is positioned at a controlled displacement from the body part to be treated. Support for this recitation was present in the original disclosure at, for example, paragraph 0091.

**Rejections Under 35 U.S.C. § 112, 1<sup>st</sup> Paragraph:**

Claim 22 was rejected under 35 U.S.C. § 112, 1<sup>st</sup> Paragraph, as containing subject matter which was not described in the specifications in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The Examiner alleges that the recitation “without permanent changes to the integrity of said body” is not supported in the specification.

The Applicants believe the recitation to be fully supported. However, in order to advance the prosecution of this application, the Applicants cancel Claim 22.

**Rejections Under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph:**

Claim 23 was rejected under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph, as being indefinite. The Examiner alleges the recitation “said coloring agents” lacks antecedent basis.

In order to advance the prosecution of this application, the Applicants cancel Claim 23.

**Rejections Under 35 U.S.C. § 103(a):**

*Claims 3, 5-12, 15-19, and 23-26 as unpatentable over Syrowicz*

Claims 3, 5-12, 15-19, and 23-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Syrowicz (US 2003/0060810). The Examiner alleges Syrowicz teaches applying cosmetic products to a human body using a robotic arm.

The Applicants reallege their prior arguments that Syrowicz is not prior art to the present application because the Syrowicz provisional application lack the teachings on which the present rejection is based. However, in order to advance prosecution, the applicants cancel independent Claims 22 and 23 and amend the remaining dependent claims to depend from newly-presented Claim 28. In view thereof, the Applicants respectfully request the Examiner withdraw the rejection as moot.

The applicants now argue that new Claim 28 distinguishes over Syrowicz and urge the Examiner not apply the instant *prima facie* case to new Claim 28 and claims dependent therefrom.

New Claim 28 recites a cosmetic substance application means wherein said means is provided at a variable distance from a human body part. Moreover, Claim 28 recites the distanced is controlled from about 20 microns to about 5 centimeters. These recitations are supported by the original disclosure of paragraph 0091. Syrowicz is completely silent as to controlling an application means at a defined distance from a human body part. Each of the anticipation standard of § 102 and the obviousness standard of § 103 requires a *prima facie* case comprising each claimed recitation. Because Syrowicz lacks at least one recitation of Claim 28, the Applicants urge the Examiner not reapply the instant rejection to the present application.

*Claims 4 and 13-14 as unpatentable over Syrowicz and Lehmann*

Claims 4 and 13-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Syrowicz (US 2003/0060810) in view of Lehmann (6,575,751). The Examiner applies Syrowicz as discussed above. The Examiner argues Lehmann teaches storing the products used and the visual characteristics obtained.

In view of the cancellation of independent Claims 22 and 23, the applicants respectfully request the Examiner withdraw the rejection as moot. As discussed above, newly-presented independent Claim 28 recites a distance-controlled application means. As discussed, Syrowicz lacks this recitation and, as explicated by the Examiner, this teaching is lacking in Lehmann as well. Therefore, the Applicants respectfully urge the Examiner not re-apply this rejection to the present claims.

**Conclusion:**

In view of the above, consideration and allowance are respectfully solicited.

Accordingly, it is respectfully requested that the foregoing amendments be entered, that the application as so amended receive an examination on the merits, and that the claims as now presented receive an early allowance.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number noted below.

The Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this communication, including any extension fees or fees for the net addition of claims, to Deposit Account No. 033975, Order No. 012237-0290736.

Respectfully submitted,  
PILLSBURY WINTHROP SHAW PITTMAN LLP

/John A Evans/

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By: John A. Evans, Ph.D.  
Reg. No. 44,100

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Direct Dial: (202) 663-8096  
Telephone: (703) 770-7900  
Facsimile: (703) 770-7901  
P.O. Box 10500  
McLean, VA 22102